

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

ANTHONY WAYNE MCCAIA,)	
)	
Petitioner)	
)	
vs.)	Case No. 7:13-cv-01514-KOB-HGD
)	
CYNTHIA STEWARD, Warden, and)	
THE ATTORNEY GENERAL OF)	
THE STATE OF ALABAMA,)	
)	
Respondents)	

MEMORANDUM OPINION

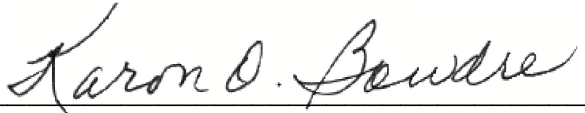
On August 19, 2013, the magistrate judge entered his report and recommendation, recommending that the court dismiss the habeas corpus petition as time-barred. (Doc. 3). On August 30, 2013, the Petitioner filed objections to the magistrate judge's report and recommendation in which he argues that his "illegal sentence" claim is exempt from any time limitations. (Doc. 4). The court disagrees.

The court has carefully considered the entire record in this case, including the magistrate judge's report and recommendation and the Petitioner's objections. The court hereby ADOPTS the report of the magistrate judge and ACCEPTS his recommendation that the court dismiss the habeas petition as time-barred. The court

finds that statutory tolling does not apply in this case because the Petitioner filed his Rule 32 petition in state court almost *ten years after* the AEDPA one-year statute of limitations expired for this habeas petition. The court also finds that the Petitioner has presented no grounds or facts to support equitable tolling of the statute of limitations. Therefore, the court finds that the habeas petition is due to be dismissed with prejudice as time-barred.

The court will enter a separate Order in conformity with this Memorandum Opinion.

DONE and ORDERED this 26th day of September, 2013.



KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE